

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN COMPACT DISC AND DVD
HOLDERS**

Inv. No. 337-TA-482

LIMITED EXCLUSION ORDER

The Commission instituted this investigation on October 22, 2002; based on a complaint filed by DuBois Limited of the United Kingdom ("DuBois") against eight respondents, including Wah-De Electron Co., Ltd of Taiwan ("Wah-De") and Dragon Star Magnetics, Inc. of Hong Kong ("Dragon Star"). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation, sale for importation, or sale within the United States after importation of certain compact disc and DVD holders by reason of infringement of U.S. Design Patent No. D441,212, which is owned by DuBois.

The investigation was subsequently terminated as to four of the respondents on the basis of settlement agreements, and as to two of the respondents based on the withdrawal of the allegations in the complaint as to them. Neither Wah-De nor Dragon Star filed responses to the complaint, the notice of investigation, the discovery order of the presiding administrative law judge ("ALJ"), the discovery requests from DuBois and the Commission investigative attorney ("IA"), or the order to show cause why they should not be found in default. Accordingly, pursuant to section 337(g)(1), 19 U.S.C. § 337(g)(1), and Commission rule 210.16(a), 19 C.F.R.

§ 210.16(a), the Commission found Wall-De and Dragon Star to be in default. The Commission can therefore presume the facts alleged in the complaint to be true.

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of default remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of compact disc and DVD holders that are covered by U.S. Design Patent No. D441,212 that are manufactured abroad by or on behalf of, or imported by or on behalf of, either Wah-De or Dragon Star.

The Commission has further determined that the public interest factors enumerated in 19 U.S.C. § 1337(g)(1) do not preclude issuance of the limited exclusion order, and that the bond during the Presidential review period shall be in the amount of 100 percent of the entered value of compact disc and DVD holders that are subject to this Order.

Accordingly, the Commission hereby **ORDERS THAT:**

1. Compact disc and DVD holders covered by U.S. Design Patent No. D441,212 that are manufactured abroad by or on behalf of, or imported by or on behalf of, Wah-de Electron Co. Ltd., or any of its affiliated companies, parents, subsidiaries, contractors, licensees, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, except under license of the patent owner or as provided by law.

2. Compact disc and DVD holders covered by U.S. Design Patent No. D441, 212 that are manufactured abroad by or on behalf of, or imported by or on behalf of, Dragon Star Magnetics, Ltd., or any of its affiliated companies, parents, subsidiaries, contractors, licensees, or other related business entities, or their successors or assigns, are excluded from entry for consumption

into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, except under license of the patent owner or as provided by law.

3. Compact disc and DVD holders that are excluded by paragraphs 1 or 2 of this Order are entitled to entry for consumption onto the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of entered value pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(j), from the day after this Order is received by the President until such time as the President notifies the Commission that he approves or disapproves this action but, in any event, not later than 60 days after the date of receipt of this action.


4. In accordance with 19 U.S.C. § 1337(1), the provisions of this Order shall not apply to compact disc and DVD holders that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

5. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.76.

6. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the Bureau of Customs and Border Protection.

7. Notice of this Order shall be published in the Federal Register.

By Order of the Commission.



Marilyn R. Abbott
Secretary

Issued: June 26, 2003